IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Goklaram Vs. State of Rajasthan & Ors.

S.B.CIVIL WRIT PETITION NO.5836/2006

DATE OF ORDER :: April 6, 2007

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.K.R.Choudhary, for the petitioner.

BY THE COURT:

Heard learned counsel for the petitioner.

Learned counsel for the petitioner submits that the respondent State has share in the Cooperative Society and, therefore, the respondent is State as envisaged under Article 12 of the Constitution of India.

On perusal of the material on record, in my view, there is no deep and pervasive financial as well as administrative control of the State. There is no averment in the writ petition that respondent Jalippa Gram Seva Samiti Ltd., Chuli or the Central

Co-operative Bank Ltd. are State within the meaning of Article 12 of the Constitution of India. It has also not been stated as to whether the respondent Co-operative Society and the Bank created under the provision of any of the Act or the Rules framed thereunder. There is no averment in the writ petition that the respondent Co-operative Society as subject to control of the State in terms of any provision of the Act or Rules are meant to ensure proper functioning of the Society and thus the State or statutory authorities would have nothing to do with its day-to-day functions. It has also not been averred that the respondent Co-operative Society or Bank is financially, functionally and administratively dominated by or pervasive control of the State Government. Even it has not been stated that the State has regular control whether under the statute or otherwise.

The Hon'ble Supreme Court in S.S.Rana vs. Registrar, Co-operative Societies & Anr., **2006 AIR SCW 3723** held that when the control is merely regulatory whether under statute or otherwise, it would not serve to make the body a State. It was further held that unless the test laid down in Ajay Hasia vs. Khalid Mujib Sehravardi (1981) 1 SCC 722, the Co-operative Society or the Bank cannot be said to be the State within the meaning of Article 12 of the Constitution of India.

In the instant case, the petitioner has failed to satisfy the test laid down in Ajay Hasia vs. Khalid Mujib Sehravardi (supra). It has not been averred in the writ petition that the respondent Co-operative Society or the Bank function under the State. It has also not been shown that the termination of the petitioner is in violation of any mandatory provisions of Act or Rules framed thereunder. In this view of the matter, the respondent Co-operative Society is not amenable to the writ jurisdiction not being the State within the meaning of Article 12 of the Constitution of India and as such the writ petition against the Co-operative Society is not maintainable and therefore, the same deserves to be dismissed.

In the result, the writ petition fails and is hereby dismissed. Stay petition also stands dismissed. There shall be no order as to costs.

(H.R.PANWAR),J.

m.asif/-